

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISON**

JOE RICHARD “TREY” POOL, §
III, TRENTON DONN “TRENT” §
POOL, and ACCELEVATE2020, § **CIVIL ACTION**
LLC, §
§ **No. 19-CV-2236**
Plaintiffs, §
v. §
CITY OF HOUSTON and ANNA §
RUSSELL, in her official capacity as §
Secretary of the City of Houston §
§
Defendants. §
§

**DEFENDANTS CITY OF HOUSTON’S AND
ANNA RUSSELL’S MOTION TO DISMISS OR, ALTERNATIVELY,
FOR SUMMARY JUDGMENT**

Defendants, the City of Houston (“Houston”), and Anna Russell, ¹the former City Secretary sued in her official capacity, (collectively “the City”), file this Motion to Dismiss or, Alternatively, Motion for Summary Judgment on Plaintiffs’ claims, pursuant to Federal Rules of Civil Procedure 12(b)(1) and 56. In support of its alternative Motions, the City states the following:

This Court should dismiss and/or grant summary judgment and enter a take-nothing judgment in the City’s favor because Plaintiffs’ claims seeking declaratory and injunctive relief are moot. Plaintiffs’ nominal damages claim should also be dismissed. First, Plaintiffs have no standing to assert a nominal damages claim. Plaintiffs admit that nominal

¹ Ms. Russell is deceased.

damages will not redress their alleged injuries. Moreover, the Supreme Court has recently held that nominal damages satisfy redressability requirements only when there is actual enforcement of the challenged law, which all parties concede did not occur here. Alternatively, nominal damages become moot when actual declarative claims become moot, as they have here. because they cannot redress any alleged injury.

These arguments is set forth in detail in Defendants' Memorandum in Support of its Motion to Dismiss or, Alternatively, Motion for Summary Judgment on Plaintiffs' Claims, which is incorporated for all purposes here, and which will be filed concurrently with this document.

For the reasons stated herein and in the City's accompanying Memorandum, Defendants respectfully request that this Court grant Defendants' Motion to Dismiss/Motion for Summary Judgment on Plaintiffs' claims and dismiss Plaintiffs' claims or, alternatively, enter a take-nothing judgment in the City's favor, and award Houston such fees, costs, or other relief as to which the Court finds it entitled.

Respectfully submitted,

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as Secretary for the City of Houston*

CERTIFICATE OF SERVICE

I certify that on March 18, 2021, a copy of the foregoing City's Motion to Dismiss or, Alternatively, Motion for Summary Judgment on Plaintiffs' Claims was served electronically on the CM/ECF system which will automatically serve an electronic notice on the following counsel of record for Plaintiffs:

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